

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARCUS CARROZZA

Plaintiff,

v.

CAROLYN W. COLVIN,

Acting Commissioner of Social Security,*

Defendant.

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CIVIL ACTION NO. 12-4750

ORDER

Plaintiff Marcus Carrozza filed this action under 42 U.S.C. § 405(g) requesting judicial review of the final decision of the Commissioner of the Social Security Administration (“Commissioner”), denying his protective application for Disability Insurance Benefits and Supplemental Security Income. This Court referred the case to United States Magistrate Judge David R. Strawbridge for a Report and Recommendation (“R&R”). Magistrate Judge Strawbridge recommended that the Commissioner’s decision be affirmed. No objections to the R&R have been filed.

The Commissioner affirmed the decision of the Administrative Law Judge (“ALJ”), who found that although Mr. Carrozza suffered from severe impairments of obstructive pulmonary disease, asthma, and bilateral hearing loss, these impairments did not render him disabled, because he retained the residual functional capacity to perform sedentary work, subject to certain conditions.¹ In his request for review, Mr. Carrozza argued that (1) the ALJ erred in failing to obtain an updated opinion of a medical expert; and (2) the ALJ failed to show that there were significant jobs that Mr. Carrozza could perform subject to the found limitations. The Magistrate

* Substituted pursuant to Fed. R. Civ. P. 25(d).

¹ These limitations were that Mr. Carrozza “needs a moderate noise environment, can only engage in face to face verbal communication, can have no exposure to environmental irritants (must avoid concentrated exposure to dust, gases, fumes, poorly ventilated areas, extreme temperatures, humidity), and must avoid exposure to hazardous machinery and unprotected heights.” R. 16.

Judge determined that the ALJ's decision was supported by substantial evidence. Because no objections to the R&R were filed, the Court need not perform a *de novo* review and has the discretion to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate."² The Court has carefully considered the administrative record and the R&R, and agrees with the Magistrate Judge's recommendation. As explained in the R&R, the ALJ was not required to obtain an updated medical opinion for a determination of equivalence of two apparently unrelated conditions (hearing loss and pulmonary disease), and after the ALJ posed a hypothetical question to the vocational expert that encompassed all of Plaintiff's limitations as found by the ALJ, the vocational expert identified jobs that a person with such limitations could perform.

AND NOW, this 8th day of July 2013, after careful review and independent consideration of the administrative record, and of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge, to which no objections have been filed, it is hereby **ORDERED** that:

1. The Clerk of Court is directed to remove this action from the suspense docket and return it to the active docket;
2. The Report and Recommendation is **APPROVED and ADOPTED**; and
3. Plaintiff's Petition for Review (filed as a Motion for Summary Judgment) is

DENIED.

It is so **ORDERED**.

BY THE COURT:

/s/ **Cynthia M. Rufe**

CYNTHIA M. RUFÉ, J.

² Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).